



# MISSOURI DEPARTMENT OF MENTAL HEALTH

KEITH SCHAFER, DEPARTMENT DIRECTOR



DEPARTMENT  
OPERATING  
REGULATION  
NUMBER

DOR  
8.150

CHAPTER Regulatory Compliance	SUBCHAPTER HIPAA Regulation	EFFECTIVE DATE 7/1/09	NUMBER OF PAGES 2	PAGE NUMBER 1 of 2
SUBJECT Minimum Necessary Standard		AUTHORITY 45 CSR Section 164.502 et seq	History	See Below
PERSON RESPONSIBLE General Counsel			Sunset Date 7/1/12	

**PURPOSE:** This DOR will provide instruction regarding the Department of Mental Health's obligations relating to the HIPAA requirement to use, disclose, or request only the minimum amount of protected health information (PHI) necessary to accomplish the intended purpose of the use, disclosure or request.

**APPLICATION:** The Department of Mental Health, its facilities and workforce.

(1) **DEFINITIONS:** As used in this operating regulation, the following terms shall mean:

(A) **Protected Health Information (PHI):** Individually identifiable health Information that is transmitted or maintained in any form or medium, by a covered entity, health plan or clearinghouse as defined under the Health Insurance Portability and Accountability Act (HIPAA), 45 CFR Part 160 and 164.

(B) **Individually Identifiable Health Information:** Any information, including demographic information, collected from an individual that -

1. is created or received by a healthcare provider, health plan, employer, or healthcare clearinghouse; and

2. related to the past, present, or future physical or mental health or condition of an individual; the provision of healthcare to an individual; or the past, present, or future payment for the provision of healthcare to an individual, and

a. identifies the individual, or

b. there is reasonable basis to believe that the information can be used to identify the individual.

(C) **Workforce Members:** Employees, volunteers, trainees, and other persons whose conduct, in the performance of work for the department, its offices, programs or facilities, is under the direct control of the department, office, program or facility, regardless of whether they are paid by the entity.

(2) **PROCEDURE:**

(A) The Department of Mental Health, its facilities and its workforce, shall make reasonable efforts to ensure that the minimum necessary PHI is disclosed, used, or requested. Exceptions to the minimum necessary requirement include:

1. Disclosures to the individual who is the subject of the information;

2. Disclosures made pursuant to an authorization;

3. Disclosures to or requests by healthcare providers for treatment purposes;

4. Disclosures required for compliance with the standardized HIPAA transactions;



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5. Disclosures made to U.S. Department of Health and Human Services-  
Office of Civil Rights pursuant to a privacy investigation; or

6. Disclosures otherwise required by the HIPAA regulations or other law.

(B) Each user of PHI shall be subject to the provisions of DOR 8.040 relating to staff access to PHI.

(C) Reasonable efforts shall be made to limit each PHI user's access to only the PHI that is needed to carry out his/her duties. These efforts shall include the Privacy Officer or designee monitoring staff use and disclosure of PHI.

(D) For situations where PHI use, disclosure or request for PHI occurs on a routine and recurring bases, the Central Office Privacy Officer or designee shall issue directives as to what information constitutes the minimum necessary amount of PHI needed to achieve the purpose of the use, disclosure or request.

(E) For non-routine disclosures (other than pursuant to an authorization), staff shall address questions to the facility Privacy Officer or designee or the Central Office Privacy Officer, or designee, to assure that PHI is limited to that which is reasonably necessary to accomplish the purpose for which disclosure is sought. Examples of non-routine disclosures include providing PHI to accrediting bodies; insurance carriers, research entities, funeral homes, etc.

(F) Any questions related to this DOR shall be directed to the facility Privacy Officer, or designee, or the Central Office Privacy Officer, or designee.

(3) NO LOCAL POLICIES: There shall be no local policies on this topic. The Department Operating Regulation shall control.

(4) SANCTIONS: Failure to comply or assure compliance with this DOR shall result in disciplinary action, up to and including dismissal.

(5) REVIEW PROCESS: The Central Office Privacy Officer shall collect information from the facility Privacy Officers during the month of April each year to monitor compliance with this DOR.

*History: Emergency DOR effective January 15, 2003. Final DOR effective June 1, 2003. Amendment effective July 1, 2006. On July 1, 2009, the sunset date was extended to July 1, 2012.*